



**MINUTES OF SPECIAL JOINT MEETING OF THE
CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 19, 2005, 8:00 p.m.**

MEETING

The Special Joint City Council/Redevelopment Agency Meeting was called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Dowling.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Quirk, Halliday, Ward, Dowling,
Henson
MAYOR/CHAIR Cooper
Absent: COUNCIL/RA MEMBERS None

PUBLIC COMMENTS

John Kyle spoke on the issue of parking at the proposed development that will include Rigatoni Restaurant.

Lou Flipovich, a resident of San Leandro, spoke on public information policies in relation to articles in local newspapers. He read and commented from a newspaper article related to proposed legislation, AB1625 and its impacts.

Frank Goulart offered dates for four Hayward walking tours that he conducts. They will begin at 10 a.m. in front of the HAAS building. He also displayed the poster, noting that his band, the Gates of Eden, will be playing at the Zucchini Festival on August 20 at Kennedy Park. Mayor Cooper encouraged him to extend the number of walks.

Francisco Abrantes reiterated his concerns regarding a nine-inch strip of land on his property on Grand Street. Mayor Cooper requested that staff explain his issue. City Manager Armas reiterated the issue regarding Mr. Abrantes' claim of receiving inaccurate information.

CONSENT

Consent Item 2 was removed for further discussion.

1. Approval of Minutes of the City Council Meeting of July 12, 2005

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to approve the minutes of the City Council Meeting of July 12, 2005.

2. Appropriation of Funds for Giuliani Plaza Children's Park

Staff report submitted by Acting Director of Public Works Bauman, dated July 19, 2005, was filed.

Council Member Dowling asked what would occur if the desired outcome of fundraising is not achieved. There was Council discussion, noting that the Rotary Club has been successful in receiving an in-kind grant of \$75,000 as well as \$50,000 from the Valley Foundation.

Council Member Quirk asked for a better understanding of several of the symbols in the layout. City Manager Armas described the proposed area, the proposed landscaped green space and that half of the parking area will be removed with the eastern half remaining as a parking area.

Council Member Halliday thanked the Rotary Club for the proposed tot lot and noted that this is an amenity that is needed in the downtown. She also thought it would bring a bright spot into our downtown horizon.

Council Member Henson, the Council's representative on the Alameda County Waste Management Authority, indicated that this is ideal and an appropriate use of the recycle funds for an excellent cause. He noted that the Authority strives to ensure that no harmful products are used.

It was moved by Council Member Ward, seconded by Council Member Henson, and carried unanimously, to adopt the following:

Resolution 05-096, "Resolution Amending Resolution 05-078, the Budget Resolution for Fiscal Year 2005-06, Relating to an Appropriation of Funds from the Recycled Product Procurement Grant Fund (Fund 213) and the Measure D Fund (Fund 215) to the Giuliani Plaza Children's Park Project"

3. Adoption of Positions and Salaries Resolution for Fiscal Year 2005-2006

Staff report submitted by Acting Human Resources Director Macias, dated July 19, 2005, was filed.

It was moved by Council Member Ward, seconded by Council Member Dowling, and carried unanimously, to adopt the following:

Resolution 05-095, "Resolution Designating Positions of Employment in the City Government of the City of Hayward; Providing for Their Number and Salary Range; and Superseding Resolution No. 04-118 and All Amendments Thereto"

4. Sale of Parcel at Northwest Corner of C and Mission to the Hayward Area Historical Society

Staff report submitted by City Manager Armas, dated July 19, 2005, was filed.



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It was moved by Council/RA Member Ward, seconded by Council/RA Member Dowling, and unanimously carried, to adopt the following:

RA Resolution, 05-13, "Resolution Authorizing the Execution of Purchase and Sale Agreement for the Property Located at C Street and Mission Boulevard"

5. Implementation of Cannery Plan
 - A. Approval of Replacement Housing Plan

Staff report submitted by Redevelopment Director Bartlett, dated July 19, 2005, was filed.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Dowling, and unanimously carried, to adopt the following:

RA Resolution, 05-14, "Resolution Approving the Replacement Housing Plan for Implementation of the Cannery Plan"

- B. Deconstruction of Vacant Residential Properties on C Street: Award of Contract and Appropriation of Funds

Staff report submitted by Redevelopment Director Bartlett, dated July 19, 2005, was filed.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Dowling, and unanimously carried, to adopt the following:

RA Resolution, 05-15, "Resolution Awarding Contract to Blue Water Services for Hazardous Materials Remediation and Deconstruction of Vacant Residential Properties on C Street Project, Project No. 5097"

RA Resolution, 05-16, "Resolution Amending Resolution RA 05-12, As Amended, the Redevelopment Budget Resolution for Fiscal Year 2005-2006, Relating to an Appropriation of Funds from the Redevelopment Tax Allocation Bonds Fund, Fund 454 for the Hazardous Materials Remediation and Deconstruction of Vacant Residential Properties on C Street Project, Project No. 5097"

HEARINGS

6. General Plan Amendment PL-2005-0157 and Zone Change PL-2005-0158, Tentative Tract Map 7620, Development Agreement PL-2005-0317 – The DeSilva Group

(Applicant)/Dumbarton Quarry Associates, The DeSilva Group, Andrew Garin, Maxine Theobald, Howard Settle and Richard S. and Annette P. Warren Trust (Owners) – The 162-Acre Site is Proposed for Subdivision (Tract 7620) for Development of 179 Single-Family Residential Lots and Related Streets on 29.4 Acres – Property Proposed to be Annexed into the City

Staff report submitted by Senior Planner Rizk, dated July 19, 2005, was filed.

Senior Planner Rizk made the presentation, noting the pending approval of the annexation agreement. He reported that the quarry application for extension is pending the approval of this general plan amendment and provided a historical perspective of quarry operation. He described the development that will include 179 single-family units, an eastern extension of Tennyson Road, a thirty-acre community park with the option to utilize the park-in-lieu fees to develop the site and an extension of Alquire Road. There are thirteen home styles for this proposed development with four different plans that are of Mediterranean influence. He showed several visuals of its visibility from the South Hayward BART Station. He discussed the affordable housing, which would be twenty-seven units and explained that these affordable units will be located in the Mt. Eden neighborhood through Eden Housing. He explained the need for an additional water tank to serve this area and depicted its proposed site and the precautionary measures on its construction as it will cross the earthquake fault. He explained the streets that will be improved and a portion of Alquire Parkway that will be abandoned. He discussed two areas of concern, one a potential for natural occurring of asbestos materials that will be addressed by a dust mitigation plan as approved by responsible agencies and any materials will be buried at least ten feet from the grade and tested. He referred to a letter from the Department of Toxics Control and noted that staff was in agreement with the direction except for the timing, which seemed impractical to staff. As far as geologic issues, he reported that no homes will be built within fifty feet of any fault trace and a geologic hazard abatement district will be established to insure routine inspection and monitoring.

Council Member Jimenez commended Senior Planner Rizk on his professionalism and excellent report. He asked what would be the developer's contribution toward the community center and where it will be located. Senior Planner Rizk responded that the developer's contribution will be about \$1.5 million and that the location of the community center will need to be determined.

City Manager Armas underscored that an agreement has been made with the developer, the applicant, for a community center. He reported that the determination will be made by staff, but not without public input. It was staff's intent to locate it at a site that will provide greater accessibility to a greater population. He identified a park that could combine park with this proposal and better serve a larger community within the mission corridor study by the end of the calendar year.

Council Member Halliday expressed her concerns. She suggested a community input forum prior to the final determination of the location. She asked about the affordable housing that will be located in the Mt. Eden area. She asked about the pending annexation application at this area. Staff responded that the proposed affordable housing site is within corporate limits and the Mt. Eden annexation is in process. The site has proximity of public transportation. City Manager Armas also clarified that there are substantial residences in the area and depicted on the aerial



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map a variety of residences including the proposed KB home development. A draft tax increment agreement with the County will provide financing for the infrastructure. He anticipated that AC Transit will respond to the need for public transportation with the additional proposed housing. In regards to the community center site, there will be opportunity for public input as well as coordination with and consideration of the master plan as developed by HARD.

Council Member Halliday also asked about the dual uses of the retention basins. Senior Planner Rizk explained that the pond system will be engineered to work during heavy rains. It has worked in areas to the east as in Contra Costa County.

Council Member Dowling stated that in discussion with neighbors, there was the thought that having the community center at the development site would provide opportunity for the public to enjoy views. Senior Planner Rizk responded that the eucalyptus trees will remain and may impact the views to the west. He suggested the Local Agencies Committee participate in the discussion for the community center site. He asked about the proposed geologic hazard abatement district.

City Manager Armas reported that the geologic hazard abatement district will be established with an initial evaluation or scope of work to estimate the obligation to property owners. There will be regular monitoring and resources will be provided through this district formation. There will also be a landscape and lighting district formation. The Council will be the governing board for both districts.

There was discussion on the current condition of the present Alquire Parkway and that it is a fairly significant collector. The intersection was reviewed as part of the Mission Garin Study. Council Member Dowling noted speeding on that street and its numerous curves. Senior Planner Rizk reported that three homes are impacted by the abandonment. The abandonment will become part of those parcels and right of way access will be available for the property owners.

Council Member Quirk asked about the single story requirement and was informed of the special design requirements for the one story as well as serves the needs of 'empty-nesters.'

Council Member Ward asked about the credits to the developer. City Manager Armas indicated that the credits are for a five year period and with ownership interest.

Council Member Ward asked about the current plan for this area in particular future development in the area between North Lane and Middle Lane. Staff noted that in the long-term significant housing will be available.

Council Member Henson asked about the affordable units that will be constructed as to quality and whether their construction will meet the standards as set by Eden Housing. He also inquired on the intent to transverse State property to extend Tennyson Road. He commented on the

generation of school students as part of this proposal. He appreciated that the asbestos mitigation was addressed and cited the conditions in the agreement and felt that this seemed to be a non-issue as they adequately address the issues.

City Manager Armas reported that Caltrans is willing to provide an encroachment permit, until the official rescission of Route 238 delineations. He stated that the State is willing to negotiate a cooperative agreement that will settle the disposition of the property.

Mayor Cooper opened the public hearing at 9:19 p.m.

Lynn Shinn resides on Alquire Parkway and noted its present condition with heavy weeds. She expressed her concerns and her neighbors and asked for landscaping on the area to be abandoned. She commented on her discussion with the DeSilva Group. She noted that the majority of the abandonment is in front of her home and spoke on the adjustment of the property line as well as how it would be maintained. She appreciated the comment related to the control of the lighting and landscaping district.

Council Member Ward asked what other options are available to the adjacent property owners. Acting Public Works Director reported that once the abandonment occurs, it becomes the responsibility of the abutting property owner.

Linda Mandolin, representing Eden Housing, responded to Council questions related to the inclusionary partnerships and looked forward to the infrastructure improvements and described the site scoring process, noting that the affordable housing site scored higher than the quarry site. She responded to questions from the Council regarding the quality and standards of the housing. Affordable housing is life-time and standards are high. The timeline construction will be late 2006 or early 2007. She described the process of obtaining State tax credits, traditional bank loans, tax-exempt funds, competitive lenders, equity and funding from the developer as well as the public transportation issue. Lastly, in response to Council Member Ward's question, she reported that Eden Housing as partnered with developers has seen approximately 1,000 affordable units built for Hayward.

John Kyle spoke against the location of the inclusionary housing. He cautioned against the truck traffic that is diverted onto Saklan that would be hazardous for children living and attending school in this proposed environment.

Kindra Mendall spoke in support of the project and thanked staff as well as Council. She hadn't read all of the development guidelines, but hoped that they included a requirement for dark colored schemes for the housing to blend in with the environs.

Jay Egy, Project Manager for the DeSilva Group, introduced the project team and responded to Council questions. He addressed asbestos issues, noting that in 2000, the quarry operators complied with its capping. He explained the geologic hazard abatement district and its annual maintenance on the slopes and described it as similar to an insurance policy to address major situations such as a landslide. The homes will be painted in earth tones so that they are unobtrusive as possible. Landscaping will also provide screening. He complimented Eden Housing's efforts and noted that this will further the City's housing needs. He urged approval



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of the development.

Council Member Quirk asked him to respond to Lynn Shinn's concern and the Alquire Parkway neighborhood. Mr. Egy offered to reseal the road, landscape the area and part of the maintenance responsibility at the entrance will go to the homeowner's association.

Council Member Dowling asked who will operate the detention basins. Mr. Egy stated that initially De Silva will comply with standards in accordance with the Alameda County Flood Control District.

Council Member Halliday expressed serious concerns about housing on this site with the steep mine slope and the approximation near the earthquake fault. She asked for assurance regarding potential slides.

Frank Berlogar responded to Council questions, noting that certain measures are occurring for reclamation of the site, and in the design of the sub-drain system to avoid water build-up. Ground motion will occur. Current building codes are cautious that require expensive foundations, higher standards and soils will be compacted tested and there will be close observation of sediment plates. The stability of both the upper slopes and the slopes below the development are reviewed and tested using computer models that are state of the art technology.

Mr. Egy, in response to Council Member Dowling's question related to the difference in the construction of a house near the earthquake fault than at another location, reported that protection against earthquakes is increased as you construct closer to the fault and there is a proportional increase in the structural requirements, such as in the foundation reinforcements, additional concrete structural hold downs, installation of sheer panels and the structural design of the building.

Council Member Quirk suggested that when the developer returns with more specific plans, he present a three-dimensional fly-through of the development in order to more fully visualize the project. Mr. Egy thought it would be possible.

Mayor Cooper closed the public hearing at 10:08 p.m.

Mayor Cooper discussed turning this eyesore into an attraction that is unique for this community. She suggested the developer consider landscaping in a more unique manner to provide great beauty to the community. The housing designs are not extraordinary and agreed with Council Member Quirk's request for a three dimensional version of the project.

She spoke favorably of the additional plus of the affordable housing and the involvement of Eden Housing. She was not in agreement with a previous speaker's remarks as an isolated neighborhood, which has a variety of nearby amenities. She agreed with Ms. Mandolini's comments related to the high standards in the quality of housing that is required by Eden

Housing, noting the Sara Conner project as an extraordinary project.

Council Member Dowling appreciated Council Member Halliday's dialogue with the geological engineer on the construction of housing near an earthquake fault. He noted that originally he was against the development of about 2,300 units, but was more alarmed and concerned when the application process for the quarry extension surfaced. He discussed that this is a compromise and noted his preference for the community center on Mission, but would welcome it at either site. He liked the idea of one-story options for empty-nesters and singles. He appreciated Ms. Mandolini of Eden Housing for being a partner with the developer.

Council Member Halliday stated that this motion does not include the decision as to the location of the community center. She recognized the inclusionary housing requirements for this project. She also agreed that this is an excellent example of the spirit of compromise. She would be supporting the motion with some reluctance and hoped that she would not have to regret it in the future. She realized that this is earthquake country and the Council must do the best it can. Engineers are improving methods and standards towards this effort and expressed her concerns on the creation of the geological hazard abatement district. She commented on the housing design and noted that she visited a similar project in Napa with the 'two-pack' design and it really had a neighborhood feel similar to a 'duet.'

Council Member Ward was impressed and excited about the fact that a developer is contributing the equivalent of about \$6 million for the creation of a community center, open space and affordable housing. He agreed with his colleagues on how this project developed since the first meeting over eight months ago. This is certainly a spirit of compromise. The City will be benefit with a quality development, innovative ideas on affordable housing, and the continuance of this spirit of cooperation in developmental projects in this community. He also agreed with Mayor Cooper in converting an eyesore to something better for this community. He thanked Ms. Mandolini of Eden Housing in partnering with the DeSilva Group to construct quality housing for Hayward.

Council Member Henson added his comments as well as echoed his colleagues' comments related to compromise and cooperation. He thanked City staff, the DeSilva Group and the neighboring residents for presenting such an exciting project. He thanked Ms. Mandolini of Eden Housing for her expertise and informative answers to address a previous speaker's concern. This development gives opportunity for the disabled community as well as with the ten percent units. He ascertained his position to locate the community center on Mission Boulevard to reach the masses of the community. As a resident of a light colored house with limited vegetation, he agreed with Mrs. Mendall to require earth tone colored homes. He asked staff to address the issue, as described by Mr. Kyle, of truck traffic on Saklan Road.

It was moved by Council Member Henson, seconded by Council Member Quirk, and unanimously carried to adopt the following:

Resolution 05-097, "Resolution Adopting Mitigated Negative Declaration and Mitigation Monitoring Program and Approving General Plan Amendment PL 2005-0157 GPA"



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Resolution 05-098, "Resolution Adoption Mitigated Negative Declaration and Conditionally Approving Zone Change Application PL 2005-0158 TTM 7620 and the Inclusionary Housing Plan"

Introduce Ordinance 05-_, "An Ordinance Amending the Zoning Ordinance, Chapter 10, Article 1 of the Hayward Municipal Code, Relating to the Mission-Garin Area Special Design (SD-5) District"

Introduce Ordinance 05-_, "An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Prezoning Certain Territory in Connection with Zone Change Application PL-2005-0158 ZC Relating to the La Vista Quarry in the Mission-Garin Annexation Area"

Introduce Ordinance 05-_, "An Ordinance Authorizing Execution of a Development Agreement with La Vista, L.P., for Development of the La Vista Project"

7. Adoption of Resolution of Necessity to Acquire a Portion of 199 C Street (APN: 431-0024-010-08)

Staff report submitted by Redevelopment Director Bartlett, dated July 19, 2005, was filed.

Redevelopment Director Bartlett made the presentation, noting the need for the property to design a roadway. She described it as a 56-foot strip of fenced parking area at the north end of the property. It will cause the removal of a masonry wall and about 46 parking spaces. She also explained that a drainage channel of Sulphur Creek will need to be covered and become part of the future school property. She reported that the total area to be acquired is about 26,000 square feet and that 5,000 of that area are subject to an access easement in favor of Citation Homes. Based on an appraisal made in October of 2004, the Agency offered the property owner \$351,000. Mr. Libitzky, the property owner, does not agree with the valuation and is asking for replacement of the lost parking spaces as well as compensate his tenant. Redevelopment Agency Director Bartlett reported that Mr. Libitzky has requested compensation for loss of an easement right that he has with Citation. She reported that the Agency has worked out a suitable option to fulfill this request, however Mr. Libitzky offered a verbal counter offer that was not an acceptable value as established by the appraisal; thus this hearing. In summary, she noted the appropriation in the sum of the offering by the City and stated that it may still be possible to settle this matter and staff will continue to work with the property owner in an attempt to resolve this matter. She has asked for an update to the appraisal and if warranted will adjust the City offer accordingly. She reported that the property owner's representative is present.

Council/RA Ward noted for the record that a letter from Mr. Libitzky's attorney, Riggs of Emeryville, was received by Council. He confirmed that the negotiations for this type of action are not unusual, in particular when it involves the value of the property. He indicated that the action that the City takes does not prohibit staff from working with the property owners to resolve this matter.

As there were no requests to speak, Mayor/Chair Cooper opened and closed the public hearing at 10:34 p.m.

It was moved by Council/RA Member Henson, seconded by Council/RA Member Jimenez, and unanimously carried to adopt the following:

RA Resolution, 05-17, "Resolution of Necessity Declaring a Public Need for and Authorizing the Acquisition and Immediate Possession by Eminent Domain Proceedings or Otherwise a Portion of Real Property Located at 199 C Street in Furtherance of the Cannery Area Design Plan"

RA Resolution, 05-18, "Resolution Amending Resolution No. RA-05-12, as Amended, the Redevelopment Agency Budget Resolution for Fiscal Year 2005-06, Relating to an Appropriation of Funds from the Redevelopment Tax Allocation Bond Fund, Fund 454 for the Purpose of Acquiring the Libitzky Property"

8. Resolution Reaffirming Local Control and Opposing State Mandate for a Defined Contribution Plan

Staff report submitted by City Manager Armas, dated July 19, 2005, was filed.

There were no requests to speak; Mayor/Chair Cooper opened the public hearing at 10:34 p.m.

Council Member Dowling thanked Mayor Cooper and the Hayward Firefighters, Local 1909 for bringing this forward. Council expressed concerns that this impacts police and fire departments as well as the State imposing on local control.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to adopt the following:

Resolution, 05-099, "Resolution Reaffirming Local Control and Opposing State Mandate for a Defined Contribution Retirement Plan"

9. Consideration of Amending Hayward Municipal Code Relating to the Establishment of Contribution Limitations and a Voluntary Campaign Expenditure Limit for Elections to City Offices (*Continue to 7/26/05*)



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Staff report submitted by City Manager Armas, dated July 19, 2005,
was filed.

There were no requests to speak, Cooper opened and closed the public hearing at 10:38 p.m.

It was moved by Council Member Dowling, seconded by Council Member Ward, and
unanimously carried to continue this item until July 26.

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:39 p.m., wishing City Manager Armas a happy
vacation and noting that next Tuesday will be the last City Council meeting until September.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency